

**FORM TO BE USED BY A FEDERAL PRISONER IN FILING A PETITION FOR WRIT
OF HABEAS CORPUS PURSUANT TO 28 U.S.C. SECTION 2241**

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:05-HC-682-H

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FILED

SEP 26 2005

FRED L. BORCH III, CLERK
US DISTRICT COURT, EDNC
BY DEP CLK

Thomas Shane Matherly
(enter full name of petitioner)

v.

Inmate Number 34209-037

Patricia R. Stansberry

(enter full name of respondent)

1. Place of detention FCI Butner

2. Name and location of court which imposed sentence United States District Court Eastern District of Virginia Alexandria Division

3. List the indictment number(s) (if known) upon which sentence was imposed and the offense(s) for which sentence was imposed. United States V Thomas Shane Matherly Cr. Case 03-422-A. Possession of Child Pornography

Title 18 USC 2252(a)(5)(B) and Violation of Supervised Release.

4. Give the date upon which sentence was imposed and the terms of the sentence

October 31, 2003 41 months for Possession of Child Pornography

October 31, 2003 6 months for Violation of Supervised Release

5. Check whether a finding of guilty was made

- After a plea of guilty
- After a plea of not guilty
- After a plea of nolo contendere

6. If you were found guilty after a plea of not guilty, check whether that finding was made by

- a jury

- a judge without a jury

7. Did you appeal from the judgment of conviction or the imposition of the sentence?

- yes
- no

8. If you answered "yes" to #7, list:

(a) the name of each court to which you appealed:

(1) _____

(2) _____

(3) _____

(b) the result in each court to which you appealed, and the date of each such result:

(1) _____

(2) _____

(3) _____

(c) if known, the citations of any written opinion(s) or order(s) entered pursuant to such results:

(1) _____

(2) _____

(3) _____

9. State concisely the **grounds** on which you base your allegations that you are being held in custody unlawfully. I believe that the BOP has incorrectly calculated my GCT credit.

I believe that I am entitled to 54 days

a year for my term of imprisonment. This would work out to be
212 days for the entire term. However, I am only being credited
with 184 days. I believe that the BOP has misinterpreted the
Statute that Congress created. The BOP has developed a policy
(Program Statement 5880.28) which only allows a prisoner to receive
47 days a year instead of the 54 days as stated in 18 USC 3624(b).

10. State concisely and in the same order the **facts** which support each of the grounds set out in #9. I have been incarcerated since June 26, 2003. According to 18 USC 3624(b) I am entitled to receive 54 days a year on my term of imprisonment of 47 months (less any disciplinary action) which would come out to 212 days GCT. The BOP has only awarded me 184 which calculates out being awarded only 47 days a year.

11. Have you previously filed petitions for habeas corpus, motions under 28 U.S.C. § 2255, or any other applications, petitions or motions with respect to this conviction?

yes no

12. If you answered "yes" to #11, list each petition, motion or application.

(a) The specific nature thereof:

- (1) Challenged conviction on basis of speedy trial
(2) _____
(3) _____

(b) The name and location of the Court in which each was filed:

- (1) United States District Court ED of VA Alexandria Div
(2) _____
(3) _____

(c) The disposition and date of each such disposition:

- (1) Motion Denied 04/2005
(2) _____
(3) _____

(d) The citations, if known, of any written opinion(s) or order(s) entered pursuant to each such disposition:

- (1) Not Known
(2) _____
(3) _____

13. If you did not file a motion under 28 U.S.C. § 2255, or if you filed such a motion and it was denied, state why your remedy by way of such motion is inadequate or ineffective to test the legality of your detention: Lack of proof that the government violated speedy trial

14. Has any ground set forth in #9 been previously presented to this court or any other federal court by way of application for habeas corpus, motion under 28 U.S.C. § 2255, or any other petition, motion or application?

yes no

15. If you answered "yes" to #14, identify:

(a) which grounds have been previously presented:

(1) _____

(2) _____

(3) _____

(b) the proceeding in which each ground was raised:

(1) _____

(2) _____

(3) _____

16. Were you represented by an attorney at any time during the course of

(a) your arraignment and plea? yes no

(b) your trial, if any? yes no

(c) your sentence? yes no

(d) your appeal, if any, from the judgment or conviction or the imposition of sentence? yes no

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction which you filed? yes no

17. If you answered "yes" to one or more parts of #16, list:

(a) the name and address of each attorney who represented you:

(1) Mark Petrovich 8001 Braddock Rd Springfield VA 22151

(2) _____

(3) _____

(b) the proceedings at which each attorney represented you:

(1) Arraignment and plea and sentencing

(2) _____

(3) _____

Signed this 23 day of September, 1995

Steven Shane Miller
Signature of Petitioner

I declare under penalty of perjury that the foregoing is true and correct.

9-23-05
Date

Steven Shane Miller
Signature of Petitioner

Shane Matherly 34209-037

FCCP Butner Federal Correctional Institution

Po Box 1000

Butner NC 27509-1000

Special
Mail

FEDERAL CORRECTIONAL INSTITUTION
BUTNER NC 27509-1000

Date 9/23/05

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United States District Court

Attention: Clerks Office

Po Box 25620

Raleigh NC 27611